

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal Number 03-501-A
)	
STEVEN Y. LEE,)	
)	
Defendant)	

PLEA AGREEMENT

Paul J. McNulty, United States Attorney for the Eastern District of Virginia, John T. Morton, Assistant United States Attorney, the defendant, Steven Y. Lee, and the defendant's counsel have entered into an agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are those outlined below.

1. Offense and Maximum Penalties

The defendant agrees to waive indictment and plead guilty to a two-count criminal information. Count one charges the defendant with conspiracy to commit immigration fraud, in violation of Title 18, United States Code, Sections 371 and 1546(a). The maximum penalties for this offense is a term of five years of imprisonment, a fine of \$250,000, full restitution, a special assessment, and three years of supervised release. Count two charges the defendant with money laundering, in violation of Title 18, United States Code, Section 1956(a). The maximum penalties for this offense is a term of twenty years of imprisonment, a fine of \$500,000, full restitution, a special assessment, and three years of supervised release. The defendant understands that these terms of supervised release are in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

2. Factual Basis for the Plea

The defendant will plead guilty because the defendant is in fact guilty of the charged offense. The defendant admits the facts set forth in the statement of facts filed with this plea agreement and agrees that those facts establish guilt of the offense charged beyond a reasonable doubt. The statement of facts constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

3. Assistance and Advice of Counsel

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this agreement, the defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and
- d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

4. Role of the Court and the Probation Office

The defendant understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum described above but that the Court will determine the defendant's actual sentence in accordance with the Sentencing Guidelines and Policy Statements.

The defendant understands that the Court has not yet determined a sentence and that any estimate of the probable sentencing range under the sentencing guidelines the defendant may have received from the defendant's counsel, the United States, or the Probation Office, is a prediction, not a promise, and is not binding on the United States, the Probation Office, or the Court. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence.

5. Agreements Concerning Sentencing

The parties agree that U.S.S.G. §2L2.1 is the appropriate sentencing guideline for count one in this case and that the offense in count one was committed for profit. The parties also agree that the defendant should receive a six-level enhancement, pursuant to §2L2.1(b)(2)(B), because the offense in count one of the indictment involved more than 25 but less than 100 documents. The parties also agree that the defendant should receive a two-level enhancement, pursuant to §3C1.1, for attempting to obstruct the government's investigation of his misconduct. The United States, however, agrees that this obstruction occurred well before his arrest and should not be a bar to a reduction under §3E1.1 for acceptance of responsibility. The parties further agree that the defendant should receive an enhancement for his role in the offense pursuant to §3B1.1, but the parties specifically reserve their right to argue the appropriate level of enhancement to the Court at sentencing. Both parties specifically understand, however, that the preceding agreements are not binding on the Court and serve only as recommendations to the Court and the Probation Office. Both parties further state that they have no other agreements concerning counts one or two and that each party is free to argue for or against any enhancements or departures not otherwise addressed in this paragraph.

6. Waiver of Appeal and Review

The defendant also understands that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the maximum provided in the statute of conviction (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatsoever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a.

7. Special Assessment

Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100.00) per count of conviction.

8. Payment of Monetary Penalties

The defendant understands and agrees that, pursuant to Title 18, United States Code, Sections 3613, whatever monetary penalties are imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Furthermore, the defendant agrees to provide all of his financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing debtor's examination. If the

Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. If the defendant is incarcerated, the defendant agrees to participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.

9. Immunity from Further Prosecution in this District

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for the conduct described in the information or statement of facts.

10. Restitution for Offenses of Conviction

The defendant agrees to the entry of a Restitution Order for the full amount of loss suffered by the victims, if any, of his offenses. The defendant further agrees to assist the government, the probation officer, and the Virginia State Bar to identify any such victims prior to sentencing. At this time, the government is unaware of any specific victims who have suffered a loss.

11. The Defendant's Obligations Regarding Assets Subject to Forfeiture

The defendant agrees to identify all assets over which the defendant exercises or exercised control, directly or indirectly, within the past three years, or in which the defendant has or had during that time any financial interest. The defendant agrees to take all steps as requested by the United States to obtain from any other parties by any lawful means any records of assets owned at any time by the defendant. The defendant agrees to undergo any polygraph examination the United States may choose to administer concerning such assets and to provide and/or consent to the release of the defendant's tax returns for the previous five years. Defendant agrees to forfeit to the United States all of the defendant's interests in any asset of a value of more than \$1000 that, within the last three

years, the defendant owned, or in which the defendant maintained an interest, the ownership of which the defendant fails to disclose to the United States in accordance with this agreement.

12. Forfeiture Agreement

The defendant agrees to forfeit all interests in any asset related to immigration fraud that the defendant owns or over which the defendant exercises control, directly or indirectly, as well as any property that is traceable to, derived from, fungible with, or a substitute for property that constitutes the proceeds of his offense. The defendant further agrees to waive all interest in the assets in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. The defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. The defendant understands that the forfeiture of assets is part of the sentence that may be imposed in this case.

13. Waiver of Further Review of Forfeiture

The defendant further agrees to waive all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The defendant also waives any failure by the Court to advise the defendant of any applicable forfeiture at the time the guilty plea is accepted as required by Rule 11(b)(1)(J). The defendant agrees to take all steps as requested by the United States to pass clear title to forfeitable assets to the United States, and to testify truthfully in any judicial forfeiture proceeding. The defendant understands and agrees that all property covered by this agreement is subject to

forfeiture as proceeds of illegal conduct or as substitute assets for property otherwise subject to forfeiture.

14. Payment of Taxes and Filing of Tax Returns

The defendant consents to any motion by the United States under Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure, to disclose grand jury material to the Internal Revenue Service for use in computing and collecting the defendant's taxes, interest and penalties, and to the civil and forfeiture sections of the United States Attorney's Office for use in identifying assets and collecting fines and restitution. The defendant also agrees to file true and correct tax returns for the years 2000 through 2002 within ninety days and to pay all taxes, interest and penalties for the years 2000 through 2002 within a reasonable time in accordance with a plan to be devised by the Probation Office. The defendant further agrees to make all books, records and documents available to the Internal Revenue Service for use in computing defendant's taxes, interest and penalties for the years 2000 through 2002.

15. Breach of the Plea Agreement and Remedies

This agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violate any provision of this agreement, then:

- a. The United States will be released from its obligations under this agreement, including any obligation to seek a downward departure or a reduction in sentence. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement;
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense; and
- c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this agreement, including the statement of facts accompanying this agreement and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(e)(6), the Sentencing Guidelines or any other provision of the Constitution or federal law.

Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence.

16. Nature of the Agreement and Modifications

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the defendant to plead guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

17. Defendant's Signature

I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal information. Further, I fully understand all rights with respect to the provisions of the Sentencing Guidelines and Policy Statements which may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and voluntarily agree to it.

Date: _____

Steven Y. Lee_
Defendant

18. Defense Counsel's Signature

We are counsel to the defendant in this case. We have fully explained to the defendant the defendant's rights with respect to the pending information. We have reviewed the provisions of the Sentencing Guidelines and Policy Statements, and we have fully explained to the defendant the provisions of those Guidelines that may apply in this case. We have carefully reviewed every part of this plea agreement with the defendant. To our knowledge, the defendant's decision to enter into

this agreement is an informed and voluntary one.

Date: _____

Robert C. Bonsib
John M. Tran
Counsel to the Defendant

19. United States Attorney's Signature

I represent the United States in this case. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Paul J. McNulty
United States Attorney

By: _____
John T. Morton
Assistant United States Attorney

APPROVED:

Kevin Di Gregory
Deputy Chief, Criminal Division

IN THE UNITED STATES DISTRICT COURT FOR THE
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Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal Number 03-501-A
)	
STEVEN Y. LEE,)	
)	
Defendant)	

WAIVER OF INDICTMENT

I, Steven Y. Lee, the above named defendant, accused of conspiracy to commit immigration fraud in violation of Title 18, United States Code, Sections 371 and 1546(a), and money laundering, in violation of 18 U.S.C. 1956(a), being advised of the nature of the charges, the proposed information, and of my rights, hereby waive in open court prosecution by indictment and consent that the proceeding may be by information rather than by indictment.

Date: _____

Steven Y. Lee
Defendant

Date: _____

Robert C. Bonsib
John M. Tran
Counsel to the Defendant

Before: _____
UNITED STATES DISTRICT JUDGE